

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2002-000312

09/18/2012

HONORABLE GLENN M. DAVIS

CLERK OF THE COURT
L. Wistuber
Deputy

IN RE THE MATTER OF
KARA MARIE ROGERS

KARA MARIE ROGERS
2035 OKEEWEMEE RD
TROY NC 27371

AND

MATTHEW ROBERT HARTLEY

TRACY GORDON

DOCKET-FAMILY COURT CCC
FAMILY COURT SERVICES-CCC

JUDGMENT/DECREE

The court took certain issues under advisement following the evidentiary hearing on September 6, 2012. Based upon the matters presented the court makes the following findings and orders.

Relocation and Custody:

The court incorporated the findings of the parenting conference report and made other detailed findings on the record on all statutory factors pertaining to the issues of custody and relocation. As was stated at the hearing, the court is unable to find that Mother has met the burden of establishing that relocating the children's primary residence would be in the best interest of the children. The court notes that a primary consideration is the fact that such a move would be destabilizing to the children who are now stable and doing well.

As to the issue of custody, in addition to the other findings that were made on the record, the court makes the following findings:

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Neither parent was convicted of an act of false reporting of child abuse or neglect under ARS § 13-2907.02. The parties have not reached agreement regarding joint custody, and the court finds that neither parent's lack of agreement is unreasonable or is influenced by an issue not related to the best interests of the children. No evidence regarding domestic violence was presented.

The parents do not have the ability to cooperate in decision-making about the children. They have a history of conflict and contentiousness and poor communication. The court finds that the hostility and conflict needs to be curtailed in the interest of the children, but at this point, with no history of consistent collaboration, the court is unable to find they can cooperate in decision-making.

With the historical conflict and inability to communicate effectively now complicated by the distance between the parents, the court finds that joint custody is not logistically possible under the circumstances.

Based upon the foregoing and since the children will reside primarily with Father from this point, the court finds that it is in the best interest of the children that Father have sole legal custody of the children. Therefore,

IT IS ORDERED awarding Father sole legal custody of the parties' minor children, Anna, born November 2, 1996, Sarah, born July 10, 1998, and William, born May 19, 2001.

Parenting Time

As a term of the overall custody orders, parenting time shall be exercised as follows:

1. **Father:** Father shall be the children's primary residential parent. The children shall reside with Father at all times except as expressly provided below.
2. **Mother:** Mother shall have parenting time with the children:
 - **Summer:** Each Summer starting with the third Saturday after the last day of school and ending the second Saturday before school starts.
 - **Winter School Break:** The Winter Break shall be divided into two segments. The first segment shall begin when school ends for the holiday break or December 23rd (whichever is earlier) and continue until December 29th. The second segment shall begin on December 29th and continue until two days before school resumes at the end of the holiday break or January 1st (whichever is later).

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In even numbered years, Mother shall have the first segment, and Father shall have the second segment. In odd numbered years, Father shall have the first segment, and Mother shall have the second segment.

- **Christmas:** If the other parent is present in the state of the parent who has the children for the first segment of the Winter Break, that other parent may have parenting time with the children from 2:00 p.m. to 8:00 p.m. on Christmas day. In other words if Father is in North Carolina on Christmas day in 2012 he would have the option of having the children for that period on Christmas day; or if Mother is in Arizona in 2013 she has the option of spending that part of the day with the children on Christmas day. If a parent plans to be in the other state on Christmas that parent shall inform the other parent that they will be exercising Christmas day parenting time in writing no later than seven days in advance.
- **Spring and Fall Breaks:** Mother shall have the children for Spring Break each year and for Fall break in even-numbered years.
- **Other Parenting Time:** Mother shall be afforded parenting time for any weekend she is in Arizona, up to two weekends each month, provided she provides Father at least fourteen (14) days advance notice. Weekend parenting time in Arizona shall be exercised from 9:00 a.m. on Saturday to 6:00 p.m. on Sunday, or for a lesser time at Mother's option depending on her schedule and availability on that weekend.
- **Changes to Parenting Time Schedule:** The parents may make changes to the schedule by mutual consent in writing. Any significant or long term changes to the plan shall be put in writing and signed by both parties. Short term changes may be confirmed in writing using email or by other written agreement. If there is no agreement in writing to the contrary, parenting time will be as stated in this order.
- **Travel Arrangements for Parenting Time during Summer and Breaks:** Travel arrangements for parenting time will be made by mutual agreement with an effort to keep costs as low as possible. The cost of round trip tickets for the children shall be divided equally between the parties. For the first out of state parenting time trip, Mother shall purchase the round trip tickets. The party purchasing the ticket shall be reimbursed by the other party within thirty (30) days of receipt of the invoice for the tickets. They will alternate purchasing the ticket and being reimbursed from that point. The arrangements should be made such that the children arrive by no later than 2:00 p.m. of the day the period starts or ends.

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- **Telephone/Video contact:** The parent who has the child for parenting time shall arrange and facilitate a telephone call or video call between the children and the other parent at least twice a week and more often if the parties agree. The parent who has the child should not interfere with the telephone/video visit in any way. The contact shall preferably be conducted by video means if it is available. The fact that access to a telephone or computer by a child has been restricted as a means of discipline shall not preclude telephonic/video contact as ordered.

Child Support

The relevant financial factors required to be included and the discretionary allowances and adjustments that the court will allow for a current calculation of child support pursuant to the Arizona Child Support Guidelines are set forth in the child support worksheet filed with this decree, which the court incorporates and adopts as its findings with respect to child support.

Based upon the findings set forth in the worksheet, support orders and other orders are made as set forth in the Child Support Order that is filed on this date, which is incorporated by reference herein as if fully set forth.

The court further finds that a strict application of the child support guidelines in this case is inappropriate or unjust and that the court has considered the best interests of the children in determining that a deviation of \$100.00 per month from the amount determined under the guidelines is appropriate, to reduce Mother's child support obligation to \$951.00 per month. As noted in the Child Support Order, this deviation is based on the court's expectation that Mother will incur costs for visits to Arizona to maintain contact with the children, and is intended to encourage Mother to do so. If after a period of one year it appears that Mother is not in fact visiting the children in Arizona, Father may petition to have the deviation eliminated.

A.R.S. § 25-320(B) requires this court to award child support retroactive to the filing of the Petition, taking into account any temporary or voluntary support that has been made.

As stated above, the child support obligation is \$951.00 per month. Thus, the total child support obligation for the period of May 2012 through September 2012 is \$4,755.00.

IT IS ORDERED entering judgment in favor of Father and against Mother for child support arrears in the amount of \$4,755.00, representing child support due for the period of May through September 2012.

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IT IS FURTHER ORDERED, effective October 1, 2012, that Mother shall pay \$200.00 per month in addition to the current child support payment toward the child support arrearage until these sums have been paid in full.

LET THE RECORD REFLECT an Income Withholding Order is initiated electronically by the above-named deputy clerk. Confirmation # 382418.

Father having previously been ordered to pay child support pursuant to the Order of Assignment (now referred to as an Income Withholding Order) signed by Commissioner Myra Harris on December 17, 2002,

IT IS ORDERED stopping the Income Withholding Order dated December 17, 2002 (and any filed thereafter) effective April 30, 2012.

LET THE RECORD REFLECT a Stop Income Withholding Order (with Father as the payor/obligor) is initiated electronically by the above-named deputy clerk. Confirmation # 382417.

IT IS FURTHER ORDERED signing this minute entry as a formal written Judgment and Order of the court pursuant to Rule 81, Arizona Rules of Family Law Procedure.

/ s / HONORABLE GLENN M. DAVIS

JUDICIAL OFFICER OF THE SUPERIOR COURT

FILED: Exhibits Worksheet

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: <http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter>.